UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,980	02/20/2004	Sreedhara Narayanaswamy	063170.6595	7138

5073 7590 12/02/2008

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER	
MITCHELL, JASON D	
ART UNIT	PAPER NUMBER
2193	

NOTIFICATION DATE	DELIVERY MODE
12/02/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ptomail1@bakerbotts.com
glenda.orrantia@bakerbotts.com

Office Action Summary	Application No.	Applicant(s)	
	10/782,980	NARAYANASWAMY ET AL.	
	Examiner	Art Unit	
	JASON MITCHELL	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 September 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

This action is in response to an amendment filed on 9/2/08.

Claims 1-20 are pending in this application.

Response to Arguments

Applicant's arguments filed 9/2/08 have been fully considered but they are not persuasive.

Finality of Rejection

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Section 103 Rejections

In the par. bridging pp. 10-11, the applicants state:

> Specifically, it continues to be Applicants' position that BEA does not disclose, teach, or suggest "automatically, and without user input, generating deployment descriptors from the information retrieved from the deployment server," as recited in Claim 1. BEA is a user guide providing instructions to users and describing the steps necessary for deploying applications. In the Office Action, the Examiner continues to rely on page 5-3 of BEA for disclosure of Applicants' step of "automatically, and without user input, generating deployment descriptors." However, the cited portion of BEA merely discloses that "[t]o create deployment descriptors for your enterprise application," a user must copy reference files, modify application.xml, and modify application-config.xml. (BEA, page 5-3). To copy the reference files, Bea discloses that the user must "create a directory named META-IF" and identifies two files that must be copied to the user's META-INF directory. (BEA, page 5-4). To modify the "application.xml" file, Bea discloses that the user must use a text editor to modify the application name, the declarations for web applications, the declarations for EJBs, and the declarations of security roles. (BEA, page 5-4). Finally, to modify the "application-config.xml" file, Bea discloses that the user must "use a text editor to

> remove declarations for MBeans that configure services you do not use." (BEA, page 5-7). Thus, each step disclosed in Bea for creating deployment descriptors requires a user to perform a specific task. Accordingly, BEA does not disclose, teach, or suggest "automatically, and without user input, generating deployment descriptors," as recited in Claim 1. Additionally, BEA does not disclose, teach, or suggest that such deployment descriptors are automatically generated "from the information retrieved from the deployment server," as recited in Claim 1.

The examiner respectfully disagrees. The current rejection asserts that automating BEA's manual processes would have been obvious to those of ordinary skill in the art. This position is particularly appropriate because the applicants claims do not recite any operational details of the claimed automatic processes. Instead merely reciting the automation of a process which BEA performs manually. (see MPEP 2144.04 III)

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-16 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 13 fails to fall within a statutory category of invention. It is directed to a program itself (i.e. a system comprising, data, cluster and container management modules operable to perform an action), not a process occurring as a result of executing the program, a machine programmed to operate in accordance with the program or a manufacture structurally and functionally interconnected with the program in a manner which enables the program to act as a computer component and realize its functionality.

It's also clearly not directed to a composition of matter. Therefor it is rejected as being non-statutory under 35 USC 101.

Claims 14-16 depend from claim 13 and do not address this issue and are thus also rejected as being non-statutory under 35 USC 101.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 recites the limitation "the one or more application servers" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over "BEA WebLogic Portal Deployment Guide" version 4.4 (BEA).

Regarding Claims 1 and 11: BEA discloses a method of automatically deploying program units to a cluster of networked servers, comprising:

assembling one or more program units for deploying to a cluster of networked servers (*pg. 4-2 "assemble a Web application"*);

retrieving information related to the cluster of networked servers from a deployment server (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; note the listen port information must have been retrieved; also note pg. 6-2 1st par. "the host … contains the physical files that describe the cluster, enterprise application, and other supporting services"*);

generating deployment descriptors from the information retrieved from the deployment server (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; pg. 4-5, 1st par. "two deployment descriptors: web.xml ... and weblogic.xml"*); and

deploying the one or more program units to the cluster using at least the deployment descriptor (*pg. 6-18 "Deploy Your Web Application … to the Cluster"*).

BEA does not explicitly disclose generating the deployment descriptors "automatically, and without user input", but does suggest using scripts to automate similar actions (*pg. 6-22 1st full par. "Because the commands … are long and prone to typographical errors, we recommend that you use scripts"*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made script BEA's deployment descriptor generation (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value>"*) to be preformed automatically, and without user input. Those of ordinary skill in the art would have been motivated to do so ease the workload and avoid typographical errors (*pg. 6-22 1st full par. "Because the commands … are long and prone to typographical errors, we recommend that you use scripts"*). Further the examiner notes that the claim does not recite any details required for the generation and thus only broadly recites an automation of the manual deployment descriptor generation disclosed by BEA (*e.g. bridging pp. 6-11 – 6-12*) and thus does not represent a patentable distinction over the reference (see e.g. MPEP 2144.04 III).

Regarding Claims 2 and 12: The rejections of claims 1 and 11 are incorporated respectively; further BEA discloses creating naming and directory interface binding files (*pg. 4-23 "The weblogic.xml file must specify the JNDI names for each EJB"*).

Regarding Claim 3: The rejection of claim 1 is incorporated; further, as noted in the rejection of the parent claim it would have been obvious to automate the retrieval of information related to one or more application servers in the cluster (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; note the listen port information must have been retrieved; also note pg. 6-*

2 1st par. "the host … contains the physical files that describe the cluster, enterprise application, and other supporting services").

Regarding Claims 4, 6 and 18: The rejections of claims 3, 5 and 17 are incorporated; further BEA discloses dynamically allowing a user to select from the one or more application servers (*pg. 6-19 item 4.d. "Move your cluster from the Available to the Chosen list and click Apply"; pg. 3-30 "Web application targeted to a ... virtual host"*).

Regarding Claim 5: BEA discloses a method of automatically deploying program units to a cluster of networked servers, comprising:

assembling one or more program units for deploying to a cluster of networked servers (*pg. 4-2 "assemble a Web application"*);

retrieving information related to the cluster of networked servers (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; note the listen port information must have been retrieved; also note pg. 6-2 1st par. "the host … contains the physical files that describe the cluster, enterprise application, and other supporting services"*);

generating deployment descriptors from the information (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; pg. 4-5, 1st par. "two deployment descriptors: web.xml ... and weblogic.xml"*); and

deploying the one or more program units to the cluster using at least the deployment descriptor (*pg. 6-18 "Deploy Your Web Application … to the Cluster"*); and

wherein the retrieving comprises:

retrieving information related to one or more virtual hosts in the cluster (*pg. 3-30, 1st par. "application targeted to a … virtual host"*).

BEA does not explicitly disclose automatically retrieving information related to the one or more virtual hosts, but does suggest using scripts to automate similar actions (*pg. 6-22 1st full par. "Because the commands … are long and prone to typographical errors, we recommend that you use scripts"*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made script BEA's information retrieval (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value>"; pg. 6-2 1st par. "the host … contains the physical files that describe the cluster, enterprise application, and other supporting services"*) to be preformed automatically, and without user input. Those of ordinary skill in the art would have been motivated to do so ease the workload and avoid typographical errors (*pg. 6-22 1st full par. "Because the commands … are long and prone to typographical errors, we recommend that you use scripts"*). Further the examiner notes that the claim does not recite any details required for the generation and thus only broadly recites an automation of the manual deployment descriptor generation disclosed by BEA (*e.g.*

bridging pp. 6-11 – 6-12) and thus does not represent a patentable distinction over the reference (see e.g. MPEP 2144.04 III).

Regarding Claims 7, 19 and 20: The rejections of claims 1, 5, 11 are incorporated; further BEA does not explicitly disclose determining a type of application server.

BEA discloses multiple types of servers requiring different configurations (e.g. chapters 9 and 10 Configuring WebLogic Portals for Oracle Databases; and Configuring WebLogic Portals for Microsoft SQL Server Database).

It would have been obvious to one of ordinary skill in the art at the time the invention was made retrieve a determination of the type of server installed on the one or more nodes. Those of ordinary skill in the art would have been motivated to do so in order to properly configure the server (see e.g. ch. 9 & 10).

Regarding Claim 8: The rejection of claim 1 is incorporated; further BEA discloses the assembling further comprises providing a user interface to gather information from a user about the one or more program units being deployed (pg. 4-2 “This topic describes how to assemble a Web application … This topic includes ... Create and Populate a Directory Tree").

Regarding Claim 9: The rejection of claim 1 is incorporated; further BEA discloses the cluster of networked servers includes at least an application server and one or more clones of the application server (*pg. 6-2, 1st par. "In any WebLogic Server cluster, the host for the Administration Server is the only computer that contains the physical files that describe the cluster"*).

Regarding Claim 10: The method of claim 1, further including allowing re-deploying of already deployed one or more program units to the cluster (pg. 7-23 item 2 "update existing files").

Regarding Claim 13: BEA discloses a system automatically deploying program units to a cluster of networked servers, comprising:

data source management module operable to retrieve data source information from an application server to which to deploy one or more program units (*pg. 6-2, 4th bullet "The E-Business Control Center deploys data to an additional synchronization server"*);

cluster management module operable to retrieve cluster information related to the application server (pg. 6-2, 1st par. "If you want to modify the cluster ... configuration, you do so from the Administration Server host"); and

container management module operable to:

retrieve container information related to the application server (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen*

ports of the proxy server"; note the listen port information must have been retrieved; also note pg. 6-2 1st par. "the host … contains the physical files that describe the cluster, enterprise application, and other supporting services"); and

generate deployment descriptors from the information retrieved container information (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value> … to match the … listen ports of the proxy server"; pg. 4-5, 1st par. "two deployment descriptors: web.xml ... and weblogic.xml"*);

wherein the data source information, cluster information, container information, and deployment descriptors are used to automatically deploy the one or more program units to a cluster of networked servers (*pg. 6-18 "Deploy Your Web Application … to the Cluster"*).

BEA does not explicitly disclose generating the deployment descriptors "automatically, and without user input", but does suggest using scripts to automate similar actions (*pg. 6-22 1st full par. "Because the commands … are long and prone to typographical errors, we recommend that you use scripts"*).

It would have been obvious to one of ordinary skill in the art at the time the invention was made script BEA's deployment descriptor generation (*bridging pp. 6-11 – 6-12 "Change the value of the <param-value>"*) to be preformed automatically, and without user input. Those of ordinary skill in the art would have been motivated to do so ease the workload and avoid typographical errors (*pg. 6-22 1st full par. "Because the*

commands … are long and prone to typographical errors, we recommend that you use scripts"). Further the examiner notes that the claim does not recite any details required for the generation and thus only broadly recites an automation of the manual deployment descriptor generation disclosed by BEA (*e.g. bridging pp. 6-11 – 6-12*) and thus does not represent a patentable distinction over the reference (see e.g. MPEP 2144.04 III).

Regarding Claim 14: The rejection of claim 13 is incorporated; further BEA discloses a user interface module to retrieve information from a user related to one or more user preferences for deploying the one or more program units (*pg. 6-2, 4th bullet "The E-Business Control Center"*).

Regarding Claim 15: The rejection of claim 14 is incorporated; further BEA discloses the user interface module is further operable to allow the user to change the retrieved data source information (*pg. 7-1, 5th bullet "Monitoring and Managing Data Repositories"*).

Regarding Claim 16: The rejection of claim 14 is incorporated; further BEA discloses the user interface module is further operable to allow the user to select a target cluster from the retrieved cluster information, to which to automatically deploy the one or more program units (*see e.g. Fig. 6-6 on pg. 6-20*).

Regarding Claim 17: The rejection of claim 1 is incorporated; further BEA discloses retrieving information related to one or more virtual hosts in the cluster (*pg. 3-30, 1st par. "application targeted to a … virtual host"*).

Further, it would have been obvious to automate this functionality as discussed in the parent claim.

Conclusion

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Accordingly **this action is NON-FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON MITCHELL whose telephone number is (571)272-3728. The examiner can normally be reached on Monday-Thursday and alternate Fridays 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bullock Lewis can be reached on (571) 272-3759. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Mitchell/
Examiner, Art Unit 2193

/Lewis A. Bullock, Jr./
Supervisory Patent Examiner, Art Unit 2193